Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1975

No. 75-1914

JANE MONELL, *et al.*,

Petitioners,

v.

DEPARTMENT OF SOCIAL SERVICES OF THE CITY OF NEW YORK, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI WAS TIMELY FILED JULY 2, 1976
CERTIORARI GRANTED JANUARY 25, 1977

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(printed in Petition for Certiorari)	
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Relevant Docket Entries

7/26/71	Filed Complaint and issued Summons.
11/22/71	Filed Show Cause Order to Intervene and for a Preliminary Injunction of Carol Abbey.
11/26/71	Filed Order Denying Temporary Restraining Order. Bonsal, J.
11/30/71	Filed Affidavit of Victor P. Muskin in Opposition to Motion of Carol Abbey.
1/3/72	Filed Memorandum Endorsement on Show Cause Order denying Intervention and Preliminary Injunction. Ryan, J.
4/12/72	Filed Memorandum Opinion and Order Denying Motions to Dismiss and for Summary Judgment. Motley, J.
9/14/72	Filed Amended Complaint.
10/31/72	Filed Defendants' Answer to Amended Complaint.
4/22/74	Filed Defendants' Affidavit and Notice of Motion for an Order Dismissing Complaint under Rule 12(b) or Alternatively Granting Summary Judgment to Defendants.
5/29/74	Filed Plaintiffs' Affidavit and Notice of Motion for Summary Judgment.

9/23/74	Filed Report and Recommendation from Mag. Goettell.
4/30/75	Filed Opinion of Metzner, J. dismissing Complaint.
5/30/75	Filed Plaintiffs' Notice of Appeal to the United States Court of Appeals to the Second Circuit.
3/8/76	Filed Judgment of United States Court of Appeals for the Second Circuit.
4/5/76	Issued Mandate (Judgment and Opinion).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JANE MONELL, SUSAN TERRALL, BEVERLY ZAPATA and CAROL ABBEY, on their own behalf and on behalf of all others similarly situated,

Plaintiffs,

-against-

DEPARTMENT OF SOCIAL SERVICES OF THE CITY OF NEW YORK, JULE M. SUGARMAN, as Commissioner of the Department of Social Services, BOARD OF EDUCATION OF THE CITY OF NEW YORK, HARVEY B. SCRIBNER, as Chancellor of the City School District of the City of New York; and JOHN V. LINDSAY, as Mayor of the City of New York,

Defendants.

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AMENDED COMPLAINT/CLASS ACTION
71 Civ. 3324

JURISDICTION

1. Jurisdiction over this action is invoked pursuant to 28 U.S.C. 1343(3) and (4) relating to actions under 42 U.S.C. 1981, 1983 and 2000e et seq. and the

Constitution of the United States, in particular the First, Ninth and Fourteenth Amendments.

2. Jurisdiction over this action is also invoked pursuant to 42 U.S.C. 2000e-5(f)(3) relating to actions under 42 U.S.C. 2000e et seq. (Title VII of the Civil Rights Act of 1964)

3. Plaintiffs' action for declaratory and injunctive relief and for damages is authorized by 28 U.S.C. 2201 and 2202, 42 U.S.C. 1981 and 1983 and by 42 U.S.C. 2000e-5(g).

CLASS ACTION ALLEGATIONS

4. Plaintiffs sue on their own behalf and on behalf of all others similarly situated pursuant to Rule 23(b)(c) and (3) of the Federal Rules of Civil Procedure. Defendants have acted on grounds generally applicable to the class, thereby

making appropriate final injunctive relief with respect to the class.

5. Plaintiffs represent, on information and belief, over one thousand women who are City employees, either of the Board of Education or the Department of Social Services, or other city agencies who have been, or will be arbitrarily compelled to take an unpaid leave of absence from their employment solely because of their pregnancy when they wished to and were physically capable of continuing to work. In bringing this action, these women are exercising their rights under the First, Ninth and Fourteenth Amendments to the United States Constitution, in particular, their rights to bear children and remain full, active and equal members of society without the arbitrary and capricious interference of their

employers. All of these women wish to make the private determination of when to terminate their employment because of their pregnancy without the arbitrary interference and unreasonable discrimination of City compulsory maternity leave policies which deprive them of their civil rights under color of law. The members of the class are so numerous that joinder of all of them is impracticable.

6. Plaintiffs are women who have already had their employment unconstitutionally terminated because of City policies of compulsory maternity leave, but sue on behalf of all other women, for whom questions of law and fact would be the same. Plaintiffs adequately and fairly represent all members of the class since all women city employees are, have been, or would be subject to the

unconstitutional policies of compulsory maternity leave.

7. Plaintiffs know of no conflicts of interest among the members of the class.

8. Plaintiffs claims are typical of the claims of the class.

9. There are questions of law and fact common to the class concerning whether Board of Education and Department of Social Services Policies as they relate to compulsory maternity leave for women employees are constitutional on their face and as applied by defendants in violation of the First, Ninth and Fourteenth Amendments.

10. The questions of law and fact common to the members of the classes predominate over any questions affecting only individual members. A class action is

superior to other available means for the fair and efficient adjudication of the controversy. Plaintiffs know of no interest of members of the class in individually controlling separate actions. Plaintiffs know of no difficulties likely to be encountered in the management of a class action.

PLAINTIFFS

11. JANE MONELL is a citizen of the State of New York and of the United States.

12. Until lawfully compelled to take a leave of absence because of pregnancy, Ms. Monell was employed as a Supervisor at the Bureau of Child Welfare, Department of Social Services of the City of New York.

13. SUSAN TERRALL is a citizen of the State of New York and of the United States.

14. Until unlawfully compelled to take a leave of absence because of pregnancy, Ms. Terrall was employed by the Board of Education of the City of New York as a teacher of English as a second language in the Work Incentive Program for Adult Education. Prior to said involuntary leave of absence, Ms. Terrall had been employed as a teacher for 10 months in the Work Incentive Program with a junior high school provisional regular license.

15. BEVERLY ZAPATA is a citizen of the State of New York and the United States.

16. Until unlawfully compelled to take a leave of absence because of pregnancy, Ms. Zapata was employed by the Board of Education of the City of New York as a teacher of basic education

courses in the Work Incentive Program. Prior to her compelled leave of absence, she had been employed as a teacher in the Work Incentive Program with a Regular Common Branches License.

17. Plaintiff, CAROL ABBEY is a citizen of the State of New York and the United States.

18. Until unlawfully compelled to take a leave of absence because of pregnancy, Ms. Abbey was employed as an English teacher by the Board of Education of the City of New York at Junior High School 227.

Ms. Abbey has been a teacher at J.H.S. 227 since September 1967. She now holds a regular junior high school English license.

DEFENDANTS

19. DEPARTMENT OF SOCIAL SERVICES

OF THE CITY OF NEW YORK is a department of the city government under its charter, and is authorized to hire and grant leave to its employees subject to the by-laws of the City of New York and of the Department of Social Services.

20. JULE SUGARMAN is the Director of the Department of Social Services.

21. THE BOARD OF EDUCATION OF THE CITY OF NEW YORK is a department of the city government which under its charter is charged with maintaining the public school system for the City. It is authorized to hire and grant leave to its employees subject to its by-laws.

22. HARVEY SCRIBNER is Chancellor of the New York City Board of Education.

23. JOHN LINDSAY is the Mayor of the City of New York.

24. Defendants are sued in their

official capacity.

25. On February 22, 1971, plaintiff Monell requested maternity leave to commence March 8, 1971, from her Supervisor, Ms. Sydnor. Her request was submitted with a letter from her personal physician, stating that her expected date of delivery was April 17, 1971.

26. On February 24, 1971, plaintiff Monell was informed she must leave work on Friday, February 26, 1971, as she was already in her eighth month of pregnancy.

27. On February 25, 1971, plaintiff Monell protested the forced termination date in a memorandum to Irving Damsky, Director, Department of Personnel, Bureau of Child Welfare, Department of Social Services. In this memorandum she requested that her leave be effective March 29, 1971, and further offered to

sign a waiver of liability and secure a note from her physician verifying her physical good health if permitted to continue to work. Receiving no reply to said memorandum, on February 26, 1971, Ms. Monell left work as directed.

28. On or about March 10, Ms. Monell received a letter from Inez Simon, Division of Personnel Relations, Department of Social Services, Bureau of Personnel Administration, re-confirming that her request to continue work until March 29, 1971, had been denied and indicating that the denial was based on a department policy permitting staff members to work through the seventh month of pregnancy with the approval of their Bureau Physician. The letter also noted that under city-wide leave regulations pregnant employees are permitted to work only until

the completion of the fifth month of pregnancy unless they receive "agency medical approval" and approval of the head of the agency by whom they are employed. [See letter, Appendix A annexed to the original complaint and made a part hereof.]

29. In January 1971, plaintiff Susan Terrall requested maternity leave to commence on April 1, 1971, from her then supervisor Ms. Vilma Alverez. Her request was accompanied by a note from her obstetrician, Dr. Leonard Elmaleh stating that she could work until April 1, 1971. In establishing the date of April 1, Dr. Elmaleh, indicated to plaintiff Terrall that there was no medical reason why she could not work as long as she wished. Plaintiff Terrall indicated she wished to work until April 1. Plaintiff Terrall's expected date of delivery was April 22,

1971. When plaintiff Terrall was transferred from the San Juan Center to St. Anselm's School her request was transferred to her new supervisor, Murray Liebman.

30. During the second week in January 1971, plaintiff Beverly Zapata requested maternity leave to commence on April 1, 1971, from her supervisor, Murray Liebman. Her request was accompanied by a note from her obstetrician, Dr. Eulogio Jerez stating she could work until March 15, 1971. Dr. Jerez indicated to plaintiff Zapata without further explanation that he had chosen the March 15th date for "legal" not medical reasons. The note indicated that plaintiff Zapata's expected date of delivery was April 11, 1971.

31. Plaintiffs Terrall and Zapata

were told by Mr. Liebman that they must have a physical examination done by the Board of Education Physician.

32. On March 1, 1971, they went to the Board of Education on Court Street, Brooklyn, New York, as directed. At the physical examination their blood pressure was taken, the doctor felt the size of their babies and noted the due dates indicated by their obstetricians. The Board of Education doctor then informed plaintiffs Terrall and Zapata that since they were past their seventh month of pregnancy they were supposed to stop work immediately but that they could complete the week.

33. Plaintiffs Terrall and Zapata both worked until March 5, 1971.

34. On September 10, 1971, the first day of the fall 1971 school term,

plaintiff Abbey informed Jacob Gore, the principal of J.H.S. 227 that she was pregnant and would take maternity leave before the end of the term.

35. Mr. Gore stated that if Ms. Abbey were an incompetent teacher she would have been asked to leave on September 10th, but that since Ms. Abbey was not an incompetent teacher she could continue at her job.

36. On November 11, 1971 Mr. Gore asked Ms. Abbey when she expected to begin her maternity leave. Ms. Abbey informed Mr. Gore that with her physician's advice and consent, she was physically able to continue teaching until January 3, 1971 and that she wished to do so.

37. On November 12, 1971 Ms. Abbey received a letter from Mr. Gore instructing

her to report to the Medical Division of the Board of Education "for a consultation and/or examination."

38. On November 16, 1971 Ms. Abbey reported to the Medical Division for a "consultation and examination," conducted by Dr. Sathmary, a Board of Education physician.

39. Dr. Sathmary informed Ms. Abbey that inasmuch as she had completed her seventh month of pregnancy she could no longer teach. She stated that it was the policy of the Board of Education that once a teacher passed her seventh month of pregnancy, maternity leave was mandatory and no exceptions could be made.

40. Dr. Sathmary took Ms. Abbey's blood pressure and felt her abdomen. She stated that Ms. Abbey was in fine health and that her condition was normal.

41. Ms. Abbey informed Dr. Sathmary that she felt fine and was desirous of continuing her teaching duties. Ms. Abbey's personal physician, Dr. Jere Faison, specializing in obstetrics and gynecology, based on his continuing and recent examination of Ms. Abbey, approved her continuing in her teaching duties until January, 1972. This recommendation was conveyed to Dr. Sathmary.

42. Dr. Sathmary stated that the recommendations of Ms. Abbey's physician would make no difference regarding the question of Ms. Abbey's teaching beyond her seventh month because the policy of the Board of Education did not permit it. Dr. Sathmary stated that the physicians' letters were only used to verify how long a teacher has been pregnant. Dr. Sathmary told Ms. Abbey that she had to begin her

leave of absence November 29, 1971.

43. Subsequent to the filing of the original complaint in this action, Title VII of the Civil Rights Act of 1964 (42USC 2000e-(a) was amended to cover municipalities, which were previously exempt. Within the statutory period therefore, all named plaintiffs duly filed a discrimination complaint with the Equal Employment Opportunity Commission. Prior to such filing plaintiffs Monell, Terrall and Zapata duly filed discrimination complaints with the New York City Commission on Human Rights. Plaintiff Abbey was advised by the City Commission that the pendency of this instant action, prevented the City Commission from assuming jurisdiction of her complaint.

44. On information and belief the policy of the BOARD OF EDUCATION requires

that pregnant employees stop work at the completion of the seventh month of pregnancy.

45. On the information and belief the only exception to that policy occurs when the eighth month of pregnancy occurs during the last month of the school term. Under those circumstances the employee may work until the end of the term. On information and belief this arbitrary policy is purely for the convenience of the BOARD OF EDUCATION and in no way relates to the need of the employee.

46. The policies of defendants in arbitrarily requiring plaintiffs to stop work at the completion of their seventh month of pregnancy are in violation of plaintiff's right to liberty and property guaranteed under the Fourteenth Amendment.

47. The policies of defendants in

arbitrarily requiring plaintiffs to stop work at the completion of their seventh month of pregnancy discriminate against plaintiffs on basis of their sex in that the policies are wholly without medical basis and establish arbitrary limits on the employment of pregnant women in violation of their rights under the equal protection of the laws guaranteed by the fourteenth amendment to the United States Constitution.

48. The policies of defendants in arbitrarily requiring plaintiffs to stop work at the completion of their seventh month of pregnancy violates plaintiffs' rights to have and raise a family without the imposition of unconstitutional conditions by defendants as guaranteed by the First, Ninth and Fourteenth Amendments to the United States Constitution.

49. The policies of defendants in arbitrarily requiring plaintiffs to stop work at the completion of their seventh month of pregnancy chill and deter and discourage plaintiffs in the exercise of their rights under the First, Ninth, and Fourteenth Amendments to have and raise a family.

50. Plaintiffs were arbitrarily compelled to take unpaid leaves of absence from their employment solely because of their pregnancy; such compelled leave having no relationship to their ability to satisfactorily perform their jobs.

51. In compelling plaintiffs to take such leave, defendants are arbitrarily and capriciously depriving plaintiffs of their right to bear children and remain full, active and equal members of society. The

aforesaid actions of defendants acting under color of state law will deprive plaintiffs and the class they represent of their civil rights.

52. The aforesaid policies and actions of the defendants violate Title VII of the Civil Rights Act of 1964. (42 U.S.C. 2000e et seq)

53. If plaintiffs are not granted the relief they request immediate and irreparable harm will befall not only the plaintiffs, but all others who are chilled and deterred from exercising their constitutionally protected rights to have and raise a family.

54. Plaintiffs have no adequate remedy at law.

RELIEF

WHEREFORE, plaintiffs pray that this Court grant the following relief:

1. That a declaratory judgment issue declaring that the policies of defendants Department of Social Welfare and Board of Education compelling female employees to take a leave of absence at the completion of their seventh month of pregnancy are unconstitutional and in violation of:

(a) the right to earn a livelihood, to be full and active members of the society and to decide whether to have children guaranteed by the Fourteenth Amendment to the Constitution;

(b) the right to the equal protection of the laws guaranteed by the Fourteenth Amendment;

(c) the right to have and raise a family without the imposition of unconstitutional conditions guaranteed by the First, Ninth and Fourteenth Amendments.

(d) Title VII of the Civil Rights

Act of 1964 (42 U.S.C. 2000e et. seq.)

2. That an injunction issue prohibiting and enjoining defendants, their agents, employees, attorneys or any other person active on their behalf, from further enforcing the aforesaid policy requiring employees to take a leave of absence at the completion of their seventh month of pregnancy.

3. That an order be entered: a) Awarding plaintiffs and their class damages plus interest for the deprivation of their right to be employed, including but not limited to wages lost by reason of the discriminatory acts herein alleged and measured from the dates of those discriminatory acts.

b) Awarding costs and attorneys fees in the prosecution of this action.

c) Granting such other and further

relief as this Court may deem just, proper and equitable.

Respectfully submitted,

Nancy Stearns by Gregory Abbey

Nancy Stearns
Oscar G. Chase
Gregory Abbey, of Counsel

c/o Center for Constitutional Rights
588 Ninth Avenue
New York, N.Y. 10036
Tel.: 262-2500

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(caption omitted for printing)

ANSWER

71 Civ. 3324

Defendants, by their attorney, NORMAN REDLICH, Corporation Counsel of the City of New York, answering the amended complaint herein, respectfully allege:

1. They deny each and every allegation set forth in paragraphs "1" and "2" of the amended complaint, except admit that jurisdiction of this court exists under 42 U.S.C. §1983 and 28 U.S.C. §1343 (3) as determined by this Court in its decision and order of April 12, 1972.

2. They deny each and every allegation set forth in paragraph "3" of the amended complaint except admit that this action is authorized by the Federal Civil Rights Act 42 U.S.C. §1981, 1983 and the

Declaratory Judgment Act, 28 U.S.C. §2201 et seq.

3. They deny each and every allegation set forth in paragraph "5" of the amended complaint except admit that the numbers of the class are so numerous as to make joinder impracticable.

4. They deny each and every allegation set forth in paragraph "6" of the amended complaint except admit that plaintiffs sue on behalf of a class and that this Court determined on April 12, 1972 that plaintiffs can fairly and adequately represent such class.

5. They lack knowledge or information sufficient to form a belief as to the truth of each and every allegation set forth in paragraphs "7", "8" and "10" of the amended complaint except admit that in its decision and order of April 12, 1972,

this Court determined that this action is properly maintainable as a class action.

6. They deny each and every allegation set forth in paragraph "12" of the amended complaint except admit that plaintiff Monell has been placed on maternity leave from her employment with the New York City Department of Social Services.

7. They deny each and every allegation set forth in paragraphs "14, "16" and "18" of the amended complaint which alleges that plaintiffs TERRALL, ZAPATA and ABBEY were unlawfully placed on leave from their respective positions with defendant Board of Education.

8. They deny each and every allegation set forth in paragraph "19" of the amended complaint except admit that defendant DEPARTMENT OF SOCIAL SERVICES is an agency of the City of New York within

said City's Human Resources Administration, and, as such, is empowered to grant leave to its employees pursuant to the "City-wide Leave Regulations for Employees Who Are Under the Career and Salary Plan."

9. They deny each and every allegation in paragraph "20" of the amended complaint except admit that Defendant JULE M. SUGARMAN is the Commissioner of the New York City Department of Social Services.

10. They deny each and every allegation set forth in paragraph "21" of the amended complaint except admit that Defendant BOARD OF EDUCATION OF THE CITY OF NEW YORK is a body corporate established pursuant to the Education Law of the State of New York and possesses such powers and duties as defined therein, and

further admit that said defendant has established by-laws governing the granting of leave to its employees.

11. They deny each and every allegation set forth in paragraph "22" of the amended complaint, except admit that Defendant HARVEY B. SCRIBNER is the Chancellor of the City School District of the City of New York.

12. They deny each and every allegation set forth in paragraph "26" of the amended complaint except admit that Plaintiff MONELL was placed on maternity leave commencing on Monday, March 1, 1971, as she was already in her eighth month of pregnancy, and that, accordingly, her last full working day prior to the commencement of such leave was February 26, 1971.

13. With respect to the allegations set forth in paragraph "28" of the amended

complaint, they respectfully state that the city-wide leave regulation referred to has been superseded by Personnel Order No. 36/72 dated August 25, 1972, a copy of which is appended hereto.

14. They lack knowledge or information sufficient to form a belief as to the truth of each and every allegation set forth in paragraph "29" of the amended complaint, except admit that plaintiff TERRALL requested maternity leave to commence April 1, 1971, and submitted to the Board of Education a note from L. Elmaleh, M.D. dated January 7, 1971 indicating an expected date of confinement of April 22, 1971 and that plaintiff could work until April 1, 1971; and further admit that plaintiff was transferred to a new school prior to the commencement of her maternity leave. A copy of said note is annexed to

the affidavit of Sidney Leibowitz, M.D., sworn to October 21, 1971, and previously submitted to this Court.

15. They lack sufficient knowledge or information to form a belief as to the truth of each and every allegation set forth in paragraph "30" of the amended complaint except admit that a note from Eulogio Jerez, M.D., dated 2/5/71, was submitted to the Board of Education which stated that plaintiff Zapata could continue to work until March 15, 1971 "provided her pregnancy continues uneventful and she is checked periodically." A copy of this note is annexed to the affidavit of Sidney Leibowitz, M.D., dated October 21, 1971, and previously submitted to this Court.

16. They lack sufficient knowledge or information to form a belief as to the truth of each and every statement in

paragraph "32" of the amended complaint which alleges that "The Board of Education doctor then informed plaintiffs Terrall and Zapata that since they were past their seventh month of pregnancy they were supposed to stop work immediately but that they complete the week."

17. They lack sufficient knowledge or information to form a belief as to the truth of each and every allegation set forth in paragraphs "34", "35", "36", and "37" of the amended complaint.

18. They lack sufficient knowledge or information to form a belief as to the truth of each and every allegation set forth in paragraphs "39" and "42" of the amended complaint, except deny that the alleged statements set forth therein represent the policy of the Board of Education.

19. They lack sufficient knowledge or information to form a belief as to the truth of each and every allegation set forth in paragraph "40" of the amended complaint which purports to represent an oral statement made by Dr. Sathmary to plaintiff Abbey.

20. They lack sufficient knowledge or information to form a belief as to the truth of each and every allegation set forth in paragraph "41" and "42" of the amended complaint.

21. They lack sufficient knowledge or information to form a belief as to the truth of each and every allegation set forth in paragraph "43" of the amended complaint, except admit that the Civil Rights Act of 1964 has been amended to cover municipalities during the pendency of this action and respectfully refer the

Court to the full text of said statute for a statement of the meaning and force thereof.

22. They deny each and every allegation set forth in paragraphs "44", "45", "46", "47", "48", "49", "50", "51", "52", "53" and "54" of the amended complaint.

FOR A FIRST DEFENSE,
DEFENDANTS ALLEGE:

23. The complaint fails to state a claim upon which relief can be granted.

FOR A SECOND DEFENSE,
DEFENDANTS ALLEGE:

24. On August 25, 1972, the Mayor of the City of New York issued Personnel Order 36/72, superseding the previous City-wide Leave Regulations governing maternity leave. (See Appendix). Pursuant to said personnel order, maternity leave commences "upon request and reasonable notification by the employee of her intent to take such

eave."

25. Personnel Order 36/72 applies to the New York City Department of Social Services.

26. By reason of the foregoing, this action is moot with respect to the New York City Department of Social Services.

WHEREFORE, Defendants respectfully request judgment dismissing this action with costs, or, in the alternative, declaring their maternity leave policies to be valid and constitutional in all respects.

NORMAN REDLICH
Corporation Counsel

By_____
VICTOR P. MUSKIN
Assistant Corporation Counsel
Office & P.O. Address:
Municipal Building
New York, N.Y. 10007
Te. 566-2503 or 566-2192

Dated: New York, N.Y.,
October 31, 1972.

APPENDIX

The City of New York
Office of the Mayor
New York, N.Y. 10007

Personnel Order No. 36/72 August 25, 1972

TO THE HEADS OF ALL AFFECTED CITY DEPARTMENTS AND AGENCIES:

Subject: Amendment to the Leave Regulations for Employees Who Are Under the Career and Salary Plan

By virtue of the powers in me vested by the New York City Charter, Section 5.0 of the "Leave Regulations for Employees Who are Under the Career and Salary Plan" is hereby amended. The enumeration of particular benefits herein is not intended to exclude the application of rights and benefits contained in other provisions of said Leave Regulations nor to limit existing benefits pursuant to collective bargaining agreements. Effective September 1, 1972, the aforementioned Section 5.0

shall read as follows:

5.0(a) Maternity leave of absence shall be granted to pregnant permanent employees for a period of up to 12 months. Such leave shall commence upon request and reasonable notification by the employee of her intent to take such leave. Upon application of the employee, such leave may be extended by the agency head for an additional period not to exceed one year. Total leave for this purpose shall not exceed 24 months.

5.0(b) Maternity leave of absence shall be granted to pregnant non-permanent employees for a period of up to 12 months. Such leave shall commence upon request and reasonable notification by the employee of her intent to take such leave. Upon application of the employee, such leave may

be extended by the agency head for an additional period not to exceed one year. Total leave for this purpose shall not exceed 24 months. During such period the agency head may terminate her employment because of business necessity or by the operation of law.

5.0(c) A pregnant permanent employee who is on leave of absence from her permanent position and has a non-permanent appointment to a higher position shall be granted concurrent leaves of absence from both positions pursuant to Section 5.0(a) and 5.0(b). The leave from the non-permanent position may be terminated as provided in 5.0(b) without affecting the leave from her permanent position.

5.0(d) Where a pregnant employee has an accrued sick leave and/or annual leave

balance, she shall be continued in pay status for a period of time equal to her accrued sick leave balance plus her accrued annual leave balance. Such time in pay status is included within the 12-month maternity leave period.

The Director of the Budget, the City Personnel Director, and all other officers or agencies of the City having any jurisdiction over the matters provided in this order are hereby requested, pursuant to the powers vested in them, to take the steps necessary to effectuate the provisions of this order.

John V. Lindsay
M a y c r